FIRST AMENDMENT TO THE DRAFT PROGRAM ENVIRONMENTAL IMPACT REPORT

NORTH SAN FOSE DEVELOPMENT POLICIES UPDATE



June 2005

INTRODUCTION

This document, together with the Draft Environmental Impact Report (DEIR), constitutes the Final Environmental Impact Report (FEIR) for the proposed North San José Development Policies Update. The DEIR was circulated to affected public agencies and interested parties for a 45-day review period. This Amendment consists of comments received by the Lead Agency, the City of San José, on the DEIR, responses to those comments, and revisions to the text of the DEIR.

In conformance with the CEQA Guidelines, the FEIR provides objective information regarding the environmental consequences of the proposed project. The FEIR also examines mitigation measures and alternatives to the project intended to reduce or eliminate significant environmental impacts. The FEIR can be used by the City and other Responsible Agencies in making decisions regarding the project. The CEQA Guidelines require that, while the information in the FEIR does not control the agency's ultimate discretion on the project, the agency must respond to each significant effect identified in the DEIR by making written findings for each of those effects. According to the State Public Resources Code (Section 21090), no public agency shall approve or carry out a project for which an environmental impact report has been certified which identifies one or more significant effects on the environment that would occur if the project is approved or carried out unless both of the following occur:

- (a) The public agency makes one or more of the following findings with respect to each significant effect:
 - (1) Changes or alterations have been required in, or incorporated into, the project which will mitigate or avoid the significant effects on the environment.
 - (2) Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.
 - (3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities of highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report.
- (B) With respect to significant effects which were subject to a finding under paragraph (3) of subdivision (a), the public agency finds that specific overriding economic, legal, social, technical, or other benefits of the project outweigh the significant effects on the environment.

All documents referenced in this EIR are available for public review in the office of the Department of City Planning, Building and Code Enforcement, 801 North First Street, Room 400, San José California, on weekdays during normal business hours.

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I. LIST OF AGENCIES AND INDIVIDUALS WHO RECEIVED THE DRAFT EIR

Copies of the Draft Environmental Impact Report were sent to the following agencies, organizations and individuals.

Federal Agencies

U.S. Fish and Wildlife Service Federal Highway Administration Federal Aviation Administration Environmental Protection Agency, Region 9

State of California

Resources Agency

Regional Water Quality Control Board, Region 2

Department of Parks and Recreation

Native American Heritage Commission

Department of Housing and Community Development

Department of Health Services

Public Utilities Commission

Department of Fish and Game, Region 3

Department of Water Resources

California Highway Patrol

Caltrans, District 4

Caltrans, Division of Aeronautics

Air Resources Board, Transportation Projects

Department of Toxic Substances Control (2)

Guadalupe-Coyote Resource Conservation District

County and Regional Agencies

Santa Clara County Planning Department

Santa Clara County Roads and Airports Department

Santa Clara Valley Transportation Authority

Santa Clara Valley Water District

Santa Clara County Airport Land Use Commission

Santa Clara County Historical Heritage Commission

Alameda County Planning Department

Association of Bay Area Governments

Metropolitan Transportation Commission

Bay Area Air Quality Management District

Local Governments

City of Campbell

City of Cupertino

City of Fremont

City of Milpitas

City of Morgan Hill

City of Santa Clara

City of Saratoga City of Sunnyvale Town of Los Gatos

City of San José

Historic Landmarks Commission Main Library Alviso Branch Library Educational Park Branch Library Joyce Ellington Branch Library Berryessa Branch Library

School Districts

San José Unified Santa Clara Unified Orchard

Public Utilities

Pacific Gas and Electric Co. San José Water Co. Pacific Bell

Organizations

Sierra Club
Audubon Society
Greenbelt Alliance
Preservation Action Council of San José
Coalition for Responsible Airport Management & Policy
California Pilots Association
Committee for Green Foothills

Individuals and Companies

Adams, Broadwell, Joseph & Cardozo Walter Cohen Scott Knies Jere Hench Tracy Kaplan

II. LIST OF AGENCIES AND INDIVIDUALS COMMENTING ON THE DRAFT EIR

This is a list of agencies, organizations, and individuals commenting on the Draft EIR. The list also identifies the date of the letter received, and whether the comments submitted require substantive responses in the First Amendment. Comments that raise questions regarding the adequacy of the EIR and comments that speak to the analyses in the EIR require substantive responses, for example. Comments that contain only opinions regarding the proposed project do not require substantive responses in the First Amendment. Complete copies of all of the letters are included in Section V of this First Amendment.

One letter was received from the state Department of Transportation two weeks after the end of the review period. This letter does not raise any new environmental issues that are not either raised by others and/or are addressed in the Draft EIR and this First Amendment to the Draft EIR. Therefore, no responses are provided to that letter, consistent with §15088 of the CEQA Guidelines. A copy of the late comment letter is included in Section V of this First Amendment.

Comment Received From	Date of Comment	Date Received	Response Required?			
Public Agencies						
Federal Government Agencies						
1. Federal Aviation Administration	4/15/05	4/21/05	Yes			
State Government Agencies						
2. Department of Transportation	4/25/05	4/26/05	Yes			
3. Department of Health Services	4/6/05	4/28/05	Yes			
Regional Government Agencies						
4. Santa Clara Unified School District	3/31/05	4/1/05	Yes			
5. Santa Clara Valley Transportation Authority*	4/25/05	4/25/05	Yes			
6. Santa Clara Valley Water District	4/25/05	4/26/05	Yes			
7. Bay Area Air Quality Management District	4/22/05	4/25/05	Yes			
8. Guadalupe-Coyote Resource Conservation District	4/25/05	4/25/05	Yes			
County Government Agencies						
9. Santa Clara County Roads and Airports Department	4/18/05	4/21/05	Yes			
10. Office of County Counsel	4/25/05	4/25/05	Yes			
Local Government Agencies						
11. City of Milpitas	4/21/05	4/25/05	Yes			

Comment Received From	Date of Comment	Date Received	Response Required?		
12. City of Santa Clara*	4/28/2005	5/8/05	Yes		
13. City of Campbell	4/22/05	4/24/05	Yes		
14. City of San José Historic Landmarks Commission	4/22/05	4/22/05	Yes		
Organizations					
15. Committee for Green Foothills	4/25/05	4/25/05	Yes		
16. Preservation Action Council of San José	4/24/05	4/25/05	Yes		
17. San José Downtown Association	4/25/05	4/25/05	Yes		
18. Western Waters Canoe Club	4/25/05	4/25/05	Yes		
Individuals and Companies					
19. Cisco Systems	4/25/05	4/25/05	Yes		
20. Ferrari Ottoboni LLP	4/25/05	4/25/05	Yes		
21. Libby Lucas	4/25/05	4/25/05	Yes		
Letters Received After End of Comment Period					
22. State Department of Transportation	5/11/05	5/12/05	No		

^{*}Letters from these agencies were received earlier in the process, with final signed copies received on the dates indicated.